



NATIONAL CONFERENCE of STATE LEGISLATURES

Parental Rights and Sexual Assault

1/28/2016



Various studies over the last two decades estimate that there are between 17,000 and 32,000 rape-related pregnancies in the United States each year.

In May 2015, the the Justice for Victims of Trafficking Act was enacted by Congress. Title IV of that act, the Rape Survivor Child Custody Act, increases the amount of STOP formula grant funding under the Violence Against Women Act (U.S.C. 3796gg *et seq.*) for those states that have a law permitting mothers of children conceived through rape to seek termination of parental rights of their rapists. The increased funding shall be provided for a 2 year period, but may not be awarded to the same state more than 4 times.

In addition, state legislatures have taken up the issue. Approximately 34 states and the District of Columbia have enacted legislation regarding the parental rights of perpetrators of sexual assault.

Twenty-two states allow for termination of parental rights if the parent was convicted of sexual assault which resulted in the birth of the child. The other 12 states and the District of Columbia deny or restrict custody or visitation if the child was conceived as a result of a rape or sexual assault. Generally, a conviction is required before parental rights are terminated.

Also, some states (Arkansas, the District of Columbia, Illinois, Kentucky, New Jersey, Pennsylvania, Rhode Island, Utah, West Virginia and Wyoming) still allow child support to be collected when the custody and visitation rights have been restricted. However, in Hawaii and Oregon, child support is still required even though parental rights are terminated.

Generally, these statutes fall into two categories:

Law & Justice Interim Committee
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EXHIBIT 13

1. States that Allow for Termination of Parental Rights: Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Maine, Missouri, Montana, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, Washington and Wisconsin.

2. States that Restrict or Prohibit Custody and Visitation: Arkansas, the District of Columbia, Hawaii, Illinois, Kentucky, Massachusetts, Michigan, Nevada, New Jersey, New York, Rhode Island, Utah, Virginia and West Virginia.

Below is a chart of the state statutes allowing for the termination of parental rights of restriction of custody and visitation if the child was conceived as a result of sexual assault.

The box allows you to conduct a full text search or use the dropdown menu option to select a state.

PARENTAL RIGHTS AND SEXUAL ASSAULT STATUTES

State	Bill	Summary
Alaska	Alaska Stat. §25.23.180	(c) The relationship of parent and child may be terminated by a court order issued in connection with a proceeding under this chapter or a proceeding under AS 47.10 on the grounds (3) that the parent committed an act constituting sexual assault or sexual abuse of a minor under the laws of this state or a comparable offense under the laws of the state where the act occurred that resulted in conception of the child and that termination of the parental rights of the biological parent is in the best interests of the child.
Arkansas	Ark. Stat. Ann. § 9-10-121 2013 HB 1002	(a) All rights of a putative father to custody, visitation , or other contact with a child conceived as a result of a rape shall be terminated immediately upon conviction of the rape in which the child was conceived under § 5-14-103. (b) The biological mother of a child conceived as a result of rape may petition the court under § 9-10-104 to reinstate the parental rights of a putative father terminated under subsection (a) of this section. (c) A putative father to a child conceived as a result of rape shall pay child support as provided under § 9-10-109. (d) A child conceived as a result of rape is entitled to:

State	Bill	Summary
		<p>(1) Child support under § 9-10-109; and</p> <p>(2) Inheritance under § 28-9-201 et seq.</p>
Colorado	<p>Colo. Rev. Stat. § 19-5-105.5</p> <p>2013 SB 227</p>	<p>(1) The general assembly hereby declares that the purpose of this statute is to protect the victim of a sexual assault and to protect the child conceived as a result of that sexual assault by creating a process to seek termination of the parental rights of the perpetrator of the sexual assault and by issuing protective orders preventing future contact between the parties. The general assembly further declares that this section creates civil remedies and is not created to punish the perpetrator but rather to protect the interests of the child and the victim of a sexual assault.</p> <p>(3) If a child was conceived as a result of an act that led to the parent's conviction for sexual assault or for a conviction in which the underlying factual basis was sexual assault, the victim of the sexual assault or crime may file a petition in the juvenile court to prevent future contact with the parent who committed the sexual assault and to terminate the parent-child legal relationship of the parent who committed the sexual assault or crime.</p> <p>(7) The court shall terminate the parent-child legal relationship of the respondent if the court finds by clear and convincing evidence, and states the reasons for its decision, that:</p> <p>(a) The respondent was convicted on or after July 1, 2013, of an act of sexual assault against the petitioner or was convicted of a crime in which the underlying factual basis was sexual assault against the petitioner;</p> <p>(b) A child was conceived as a result of that act of sexual assault or crime as evidenced by the respondent admitting parentage or genetic testing establishing the paternity; and</p> <p>(c) Termination of the parent-child legal relationship is in the best interests of the child.</p> <p>There is a rebuttable presumption that terminating the parental rights of the parent who committed the act of sexual assault or crime is in the best interests of the child. The court shall not presume that having only one remaining parent is contrary to the child's best interests.</p>

State	Bill	Summary
Connecticut	Conn. Gen. Stat. § 17a-111b 2001 HB 6652	(b) The Commissioner of Children and Families or any other party may, at any time, file a motion with the court for a determination that reasonable efforts to reunify the parent with the child are not required. The court shall hold an evidentiary hearing on the motion not later than 30 days after the filing of the motion or may consolidate the hearing with a trial on a petition to terminate parental rights pursuant to section 17a-112. The court may determine that such efforts are not required if the court finds upon clear and convincing evidence that: (1) The parent has subjected the child to the following aggravated circumstances: (4) the parent was convicted by a court of competent jurisdiction of sexual assault, except a conviction of a violation of section 53a-71 or 53a-73a resulting in the conception of the child;.
District of Columbia	D.C. Code Ann. § 16-914(k) 2013 B 184	(k) Notwithstanding any other provision of this section, no person shall be granted legal custody or physical custody of, or visitation with , a child if the person has been convicted of first degree sexual abuse, second degree sexual abuse, or child sexual abuse, and the child was conceived as a result of that violation. Nothing in this subsection shall be construed as abrogating or limiting the responsibility of a person described herein to pay child support .
Hawaii	Hawaii Rev. Stat. § 571-46 Hawaii Rev. Stat § 571-61	Hawaii Rev. Stat. § 571-46 (17) Notwithstanding any provision to the contrary, no natural parent shall be granted custody of or visitation with a child if the natural parent has been convicted in a court of competent jurisdiction in any state of rape or sexual assault and the child was conceived as a result of that offense; provided that: (A) A denial of custody or visitation under this paragraph shall not affect the obligation of the convicted natural parent to support the child ;

State	Bill	Summary
		(B) The court may order the convicted natural parent to pay child support ;
	2013 SB 529	<p>(C) This paragraph shall not apply if subsequent to the date of conviction, the convicted natural parent and custodial natural parent cohabit and establish a mutual custodial environment for the child; and</p> <p>(D) A custodial natural parent may petition the court to grant the convicted natural parent custody and visitation denied pursuant to this paragraph, and upon such petition the court may grant custody and visitation to the convicted natural parent where it is in the best interest of the child.</p>

Hawaii Stat. § 571-61

(5) The family courts may terminate the parental rights in respect to any child of any natural parent upon a finding that the natural parent has been convicted in a court of competent jurisdiction in any state of rape or sexual assault and the child was conceived as a result of the rape or sexual assault perpetrated by the parent whose rights are sought to be terminated; provided that:

(A) The termination of parental rights shall not affect the obligation of the convicted natural parent to support the child;

(B) The court may order the convicted natural parent to pay **child support**;

(C) This paragraph shall not apply if subsequent to the date of conviction, the convicted natural parent and custodial natural parent cohabit and establish a mutual custodial environment for the child; and

(D) The custodial natural parent may petition the court to reinstate the convicted natural parent's parental rights terminated pursuant to this paragraph.

State	Bill	Summary
Idaho	Idaho Code § 16-2005 2005 HB 325	<p>(2) The court may grant an order terminating the relationship and may rebuttably presume that such termination of parental rights is in the best interests of the child where:</p> <p>(a) The parent caused the child to be conceived as a result of rape, incest, lewd conduct with a minor child under the age of 16 years, or sexual abuse of a child under the age of 16 years, as defined in sections 18-6101, 18-1508, 18-1506 and 18-6602, Idaho Code;</p>
Illinois	Ill. Rev. Stat. ch. 750 § 45/6.5 2013 HB 3128	<p>§ 6.5. Custody or visitation prohibited to men who father through sexual assault or sexual abuse.</p> <p>(a) This Section applies to a person who has been found to be the father of a child under this Act and who:</p> <p>(1) has been convicted of or who has pled guilty or nolo contendere to (criminal sexual assault), (aggravated criminal sexual assault (predatory criminal sexual assault of a child), (criminal sexual abuse), (aggravated criminal sexual abuse), (sexual relations within families), (criminal sexual assault), (aggravated criminal sexual assault), (predatory criminal sexual assault of a child), (criminal sexual abuse), (aggravated criminal sexual abuse), for his conduct in fathering that child; or</p> <p>(2) at a fact-finding hearing, is found by clear and convincing evidence to have committed an act of non-consensual sexual penetration for his conduct in fathering that child.</p> <p>(b) A person described in subsection (a) shall not be entitled to custody of or visitation with that child without the consent of the child's mother or guardian. If the person described in subsection (a) is also the guardian of the child, he does not have the authority to consent to visitation or custody under this Section. If the mother of the child is a minor, and the person</p>

State	Bill	Summary
		<p>described in subsection (a) is also the father or guardian of the mother, then he does not have the authority to consent to custody or visits.</p> <p>(c) Notwithstanding any other provision of this Act, nothing in this Section shall be construed to relieve the father described in subsection (a) of any support and maintenance obligations to the child under this Act. The child's mother or guardian may decline support and maintenance obligations from the father.</p>
Kansas	Kan. Stat. §§ 38-2269	<p>38-2269. Factors to be considered in termination of parental rights; appointment of permanent custodian. (a) When the child has been adjudicated to be a child in need of care, the court may terminate parental rights or appoint a permanent custodian when the court finds by clear and convincing evidence that the parent is unfit by reason of conduct or condition which renders the parent unable to care properly for a child and the conduct or condition is unlikely to change in the foreseeable future.</p> <p>(b) In making a determination of unfitness the court shall consider, but is not limited to, the following, if applicable:</p> <p>(e) If a person is convicted of a felony in which sexual intercourse occurred, or if a juvenile is adjudicated a juvenile offender because of an act which, if committed by an adult, would be a felony in which sexual intercourse occurred, and as a result of the sexual intercourse, a child is conceived, a finding of unfitness may be made.</p>
Kentucky	Ky. Rev. Stat. § 403.322 Ky. Rev. Stat. §405.028	<p>(1) The Commonwealth recognizes that certain victims of sexual assault may conceive a child as a result of the sexual assault and may choose to bear and raise the child. The Commonwealth also recognizes that victims of a sexual assault who have elected to raise a child born as a result of the sexual assault, as well as that child, may suffer serious emotional or physical trauma if the perpetrator of the assault is granted parental rights with the child.</p>

State	Bill	Summary
	2014 SB 108	<p>(2) Except as provided in subsection (3) of this section, any person who has been convicted of a felony offense under KRS Chapter 510, in which the victim of that offense has conceived and delivered a child, shall not have custody or visitation rights, or the rights of inheritance under KRS Chapter 391 with respect to that child.</p> <p>(3) The mother of the child may waive the protection afforded under subsection (2) of this section regarding visitation and request that the court grant reasonable visitation rights with the child if paternity has been acknowledged.</p> <p>(4) Unless waived by the mother and, if applicable, the public agency substantially contributing to the support of the child, a court shall establish a child support obligation against the father of the child pursuant to KRS 403.211.</p>
		<p>(1) Except as provided in subsection (2) of this section, any person who has been convicted of a felony offense under KRS Chapter 510, in which the victim of that offense has conceived and delivered a child, shall not have custody or visitation rights, or the right of inheritance under KRS Chapter 391 with respect to that child.</p> <p>(2) The mother of the child may waive the protection afforded under subsection (1) of this section regarding visitation and request that the court grant reasonable visitation rights with the child if paternity has been acknowledged.</p> <p>(3) Unless waived by the mother and, if applicable, the public agency substantially contributing to the support of the child, a court shall establish a child support obligation against the father of the child pursuant to KRS 403.211.</p>
Louisiana	La. Child. Code § 1015	The grounds for termination of parental rights are:

State	Bill	Summary
	2001 SB 1076	(8) The commission of a felony rape by the natural parent which resulted in the conception of the child.
Maine	Me. Rev. Stat. Ann. tit. 19-A § 1658	<p>The parental rights and responsibilities with respect to a specific child of a parent convicted of a crime involving the sexual intercourse that resulted in the conception of that child may be terminated in accordance with this section.</p> <p>1. Petitioner. The petition for termination may be filed by the other parent or, if the other parent is a minor, the parent or guardian of the other parent.</p> <p>2. Petition. The petitioner may file a petition with the District Court that requests the termination of the parental rights and responsibilities of the convicted parent and alleges:</p> <p>A. That the parent was convicted of a crime involving sexual intercourse; and</p> <p>B. That the sexual intercourse resulted in the conception of the child.</p> <p>3. Termination. Except as provided in subsection 4, if the petitioner proves the allegations in subsection 2, paragraphs A and B by a preponderance of the evidence, the court shall terminate the parental rights and responsibilities of the parent.</p> <p>4. Exception. The court is not required to terminate the parental rights and responsibilities of a parent convicted of gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B, that resulted in the conception of the child if:</p> <p>A. The parent or guardian of the other parent filed the petition;</p> <p>B. The other parent informs the court that the sexual act was consensual; and</p> <p>C. The other parent opposes the termination of the parental rights and responsibilities of the parent convicted of the gross sexual assault.</p>
Massachusetts	Mass. Gen. Laws Ann. ch. 209C, § 3	No court shall make an order providing visitation rights to a parent who was convicted of rape, under sections 22 to 23B, inclusive, of chapter 265 or section 2, 3, 4 or 17 of chapter 272, and is seeking to obtain visitation with the child who was conceived during the commission of that rape, unless the judge determines that such child is of suitable age to signify the child's assent and the child assents to such order and that assent is in the best interest of the child; provided, however, that a court may make an order providing visitation rights to a parent convicted of rape under section 23 of said chapter 265, if (i) visitation is in the best interest of the child and (ii) either the other parent of the child conceived during the commission of that rape has reached the age of 18 and said parent consents to such visitation or the judge makes an independent determination that visitation is in the best interest of the child.
Michigan	Mich. Comp. Laws § 722.25	(2) Notwithstanding other provisions of this act, if a child custody dispute involves a child who is conceived as the result of acts for which 1 of the child's biological parents is convicted of criminal sexual conduct as provided in sections 520a to 520e and 520g of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.520a to 750.520e and 750.520g of the Michigan Compiled Laws, the court shall not award custody to the convicted biological parent. This subsection does not apply to a conviction under section 520d(1)(a) of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.520d of the Michigan Compiled Laws. This subsection does not apply if, after the date of the conviction, the biological parents cohabit and establish a mutual custodial environment for the child.
Missouri	Mo. Stat. Ann. § 211.447	5. The juvenile officer or the division may file a petition to terminate the parental rights of the child's parent when it appears that one or more of the following grounds for termination exist:

State	Bill	Summary
	1997 HB 343	(5) The child was conceived and born as a result of an act of forcible rape or rape in the first degree. When the biological father has pled guilty to, or is convicted of, the forcible rape or rape in the first degree of the birth mother, such a plea or conviction shall be conclusive evidence supporting the termination of the biological father's parental rights; or
Montana	Mont. Code Ann. § 41-3-609	<p>(1) The court may order a termination of the parent-child legal relationship upon a finding established by clear and convincing evidence, except as provided in the federal Indian Child Welfare Act, if applicable, that any of the following circumstances exist:</p> <p>(c) the parent is convicted of a felony in which sexual intercourse occurred or is a minor adjudicated a delinquent youth because of an act that, if committed by an adult, would be a felony in which sexual intercourse occurred and, as a result of the sexual intercourse, the child is born;</p>
Nevada	Nev. Rev. Stat. § 125C.210	<p>1. Except as otherwise provided in subsection 2, if a child is conceived as the result of a sexual assault and the person convicted of the sexual assault is the natural father of the child, the person has no right to custody of or visitation with the child unless the natural mother or legal guardian consents thereto and it is in the best interest of the child.</p> <p>2. The provisions of subsection 1 do not apply if the person convicted of the sexual assault is the spouse of the victim at the time of the sexual assault. If the persons later divorce, the conviction of sexual assault creates a rebuttable presumption that sole or joint custody of the child by the perpetrator of the sexual assault is not in the best interest of the child. The court shall set forth findings that any custody or visitation arrangement ordered by the court adequately protects the child and the victim of the sexual assault.</p>
New Hampshire	N.H. Rev. Stat. Ann. § 170-C:5-a	<p>170-C:5-a Termination of the Parent-Child Relationship in Cases of Sexual Assault. –</p> <p>A petition for termination of the parent-child relationship shall be granted in cases where the child's birth is the result of sexual assault of the birth mother and where termination of the parent-child relationship is in the best interests of the child. This section shall apply to a person who has been found to be the father of a child and who:</p> <p>I. Has been convicted of or who has pled guilty or nolo contendere to a violation of sexual assault as defined in RSA 632-A:2 through RSA 632-A:4, or a similar statute in</p>

State	Bill	Summary
	2014 SB 253	another state against the birth mother for his conduct in fathering the child; or II. At a fact-finding hearing, is found beyond a reasonable doubt to have fathered the child through an act of non-consensual sexual penetration.
New Jersey	N.J. Stat. Ann. § 9:2-4.1	a. Notwithstanding any provision of law to the contrary, a person convicted of sexual assault under N.J.S.2C:14-2 shall not be awarded the custody of or visitation rights to any minor child, including a minor child who was born as a result of or was the victim of the sexual assault, except upon a showing by clear and convincing evidence that it is in the best interest of the child for custody or visitation rights to be awarded. However, a court that awards such custody or visitation rights to a person convicted of sexual assault under N.J.S.2C:14-2 shall stay enforcement of the order or judgment for at least 10 days in order to permit the appeal of the order or judgment and application for a stay in accordance with the Rules of Court. c. A denial of custody or visitation under this section shall not by itself terminate the parental rights of the person denied visitation or custody, nor shall it affect the obligation of the person to support the minor child.
New York	N.Y. Dom. Rel. § 240 2013 SB 5069	(b) Notwithstanding any other provision of this chapter to the contrary, there shall be a rebuttable presumption that it is not in the best interests of the child to be placed in the custody of or to visit with a person who has been convicted of one or more of the following sexual offenses in this state or convicted of one or more offenses in another jurisdiction which, if committed in this state, would constitute one or more of the following offenses, when a child who is the subject of the proceeding was conceived as a result: (A) rape in the first or second degree; (B) course of sexual conduct against a child in the first degree; (C) predatory sexual assault; or (D) predatory sexual assault against a child.
North Carolina		The court may terminate the parental rights upon a finding of one or more of the following:

State	Bill	Summary
	N.C. Gen. Stat. § 7B-1111	(11) The parent has been convicted of a sexually related offense under Chapter 14 of the General Statutes that resulted in the conception of the juvenile. The burden in such proceedings shall be upon the petitioner or movant to prove the facts justifying such termination by clear and convincing evidence.
	2012 HB 235	
Ohio	Ohio Rev. Code § 3109.50 et. seq.	SB 207 authorizes a person who is the victim of rape or sexual battery for which a child was conceived as a result to bring an action to declare the person who was convicted of or pleaded guilty to the offense to be the parent of the child conceived as a result of rape or sexual battery committed by the other person. Details procedural and jurisdictional requirements of these proceedings. Prohibits a court from issuing an order granting parental rights with respect to a child to a person who has been convicted of rape or sexual battery and has been declared in an action or proceedings to be the parent of that child. Specifies that a relative of a person whose parental rights with that person's child have been terminated, denied, or limited under those provisions may be granted only those rights consented to by the other parent of the child. Prohibits an unmarried female who has been convicted of rape or sexual batter and has been declared the parent of a child born as a result of the rape or sexual battery from being the residential parent and legal custodian of that child.
	2014 SB 207	
Oklahoma	Okla. Stat. tit. 10A, § 1-4-904	A. A court shall not terminate the rights of a parent to a child unless: 11. A finding that the child was conceived as a result of rape perpetrated by the parent whose rights are sought to be terminated;
Oregon		(1) The rights of the parent may be terminated as provided in ORS 419B.500 if the court finds that the child or ward was conceived as the result of an act that led to the parent's

State	Bill	Summary
	Or. Rev. Stat. §§ 419B.510	conviction for rape under ORS 163.365 or 163.375 or other comparable law of another jurisdiction. (2) Termination of parental rights under subsection (1) of this section does not relieve the parent of any obligation to pay child support .
	2011 SB 522	(3) Termination of parental rights under subsection (1) of this section is an independent basis for termination of parental rights and the court need not make any of the considerations or findings described in ORS 419B.502, 419B.504, 419B.506 or 419B.508.
Pennsylvania	Pa. Cons. Stat. tit. 23, § 2511	Pa. Cons. Stat. tit. 23, § 2511: (a) General rule.--The rights of a parent in regard to a child may be terminated after a petition filed on any of the following grounds: (7) The parent is the father of a child conceived as a result of a rape or incest.
	Pa. Cons. Stat. tit. 23, § 5329	Pa. Cons. Stat. tit. 23, § 5329 (b.1) Parent convicted of certain sexual offenses.-- (1) Notwithstanding any provision of this chapter to the contrary and subject to paragraph (2), if a parent who is a victim of any of the offenses set forth in this paragraph objects, no court shall award any type of custody set forth in section 5323 (relating to award of custody) to the other parent of a child conceived as a result of any of the following offenses for which the other parent has been convicted: 18 Pa.C.S. § 3121. 1992 HB 79 18 Pa.C.S. § 3122.1. 18 Pa.C.S. § 3124.1, where the offense involved sexual intercourse.

State	Bill	Summary
	2015 SB 663	<p>18 Pa.C.S. § 3124.2 (relating to institutional sexual assault), where the offense involved sexual intercourse.</p> <p>18 Pa.C.S. § 4302.</p> <p>(2) A court may award any type of custody set forth in section 5323 to a parent who has been convicted of an offense under paragraph (1) if:</p> <ul style="list-style-type: none">(i) the parent who is a victim had an opportunity to address the court;(ii) the child is of suitable age and consents to the custody order; and(iii) the court determines the award is in the best interest of the child. <p>(3) Paternity of the child shall be established by voluntary acknowledgment of paternity or blood, genetic or other paternity testing acceptable to the court. The cost of the testing shall be borne by the parent who was convicted of the offense.</p> <p>Pa. Cons. Stat. tit. 23, § 4321</p> <p>(2) Parents are liable for the support of their children who are un-emancipated and 18 years of age or younger.</p> <p>(2.1) Paragraph (2) applies whether or not parental rights of the parent have been terminated due to a conviction for any of the following where the other parent is the victim and a child has been conceived as a result of the offense:</p> <ul style="list-style-type: none">(i) 18 Pa.C.S. § 3121 (relating to rape);(ii) 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault);

State	Bill	Summary
		<p>(iii) 18 Pa.C.S. § 3124.1 (relating to sexual assault), where the offense involved sexual intercourse;</p> <p>(iv) 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault), where the offense involved sexual intercourse; or</p> <p>(v) 18 Pa.C.S. § 4302 (relating to incest), where the offense involved sexual intercourse.</p> <p>Paternity of the child under this paragraph shall be established through voluntary acknowledgment of paternity or blood, genetic or other type of paternity test acceptable to the court. The cost of the testing shall be borne by the parent who was convicted of the offense.</p>
Rhode Island	R.I. Gen. Laws § 15-5-16 2013 SB 43 & 2013 HB 6231	<p>(4) No person shall be granted custody of or visitation with a child if that person has been convicted under or pled nolo contendere to a violation of §§ 11-37-2, 11-37-4, or 11-37-8.1 or other comparable law of another jurisdiction, and the child was conceived as a result of that violation; unless after hearing the family court finds that the natural mother or legal guardian consents to visitation with the child, and the court determines that visitation is in the best interest of the child, then the court may order supervised visitation and counseling.</p> <p>(f) This chapter does not affect the right of the family court to award alimony or support pendente lite.</p>
South Carolina	S.C. Code Ann. § 63-7-2570	<p>The family court may order the termination of parental rights upon a finding of one or more of the following grounds and a finding that termination is in the best interest of the child:</p> <p>(11) Conception of a child as a result of the criminal sexual conduct of a biological parent, as found by a court of competent jurisdiction, is grounds for terminating the rights of that</p>

State	Bill	Summary
		biological parent, unless the sentencing court makes specific findings on the record that the conviction resulted from consensual sexual conduct where neither the victim nor the actor were younger than fourteen years of age nor older than eighteen years of age at the time of the offense.
Tennessee	Tenn. Code Ann. § 36-1-113	Tenn. Code Ann. § 36-1-113 (g) Initiation of termination of parental or guardianship rights may be based upon any of the grounds listed in this subsection (g). The following grounds are cumulative and non-exclusive, so that listing conditions, acts or omissions in one ground does not prevent them from coming within another ground:
	Tenn. Code Ann. § 36-6-102	(10) (A) The parent has been convicted of aggravated rape pursuant to § 39-13-502, rape pursuant to § 39-13-503, or rape of a child pursuant to § 39-13-522, from which crime the child was conceived. A certified copy of the conviction suffices to prove this ground;
	2010 HB 4139	(B) When one (1) of the child's parents has been convicted of one (1) of the offenses specified in subdivision (g)(10)(A), the child's other parent shall have standing to file a petition to terminate the parental rights of the convicted parent. Nothing in this section shall give a parent standing to file a petition to terminate parental rights based on grounds other than those listed in this subdivision (g)(10);
		Tenn. Code Ann. § 36-6-102 (a) Except as provided in subsection (b), any person who has been convicted of aggravated rape pursuant to § 39-13-502, rape pursuant to § 39-13-503, or rape of a child pursuant to § 39-13-522, from which crime a child was conceived shall not have custody or visitation rights , or the rights of inheritance with respect to that child. (b) The other parent of the child may waive the protection afforded under subsection (a)

State	Bill	Summary
		<p>regarding visitation and request that the court grant reasonable visitation rights with the child if paternity has been acknowledged.</p> <p>(c) Unless waived by the other parent and, if contributing toward support of the child, the department of human services, a court shall establish a child support obligation against the father of the child pursuant to chapter 5, part 1 of this title.</p>
Texas	<p>Tex. Fam. Code § 161.007</p> <p>1997 HB 1091</p>	<p>Sec. 161.007. TERMINATION WHEN PREGNANCY RESULTS FROM CRIMINAL ACT.</p> <p>(a) Except as provided by Subsection (b), the court shall order the termination of the parent-child relationship of a parent and a child if the court finds by clear and convincing evidence that:</p> <ul style="list-style-type: none"> (1) the parent has engaged in conduct that constitutes an offense under Section 21.02, 22.011, 22.021, or 25.02, Penal Code; (2) as a direct result of the conduct described by Subdivision (1), the victim of the conduct became pregnant with the parent's child; and (3) termination is in the best interest of the child. <p>(b) If, for the two years after the birth of the child, the parent was married to or cohabiting with the other parent of the child, the court may order the termination of the parent-child relationship of the parent and the child if the court finds that:</p> <ul style="list-style-type: none"> (1) the parent has been convicted of an offense committed under Section 21.02, 22.011, 22.021, or 25.02, Penal Code; (2) as a direct result of the commission of the offense by the parent, the other parent became pregnant with the child; and (3) termination is in the best interest of the child.

State	Bill	Summary
Utah	Utah Code Ann. § 76-5-414	(1) A person convicted of a violation of Title 76, Chapter 5, Part 4, Sexual Offenses, except for Sections 76-5-401 and 76-5-401.2, that results in conception of a child may not be granted custody or parent-time rights by a court regarding the child, unless:
	2013 HB 152	(a) the nonconvicted biological parent or legal guardian of the child consents and the court determines it is in the best interest of the child to award custody or parent-time to the convicted person; or
		(b) after the date of the conviction, the biological parents cohabit and establish a mutual custodial environment for the child.
		(2) A denial of custody or parent-time under this section may not in and of itself:
		(a) terminate the parental rights of the person denied parent-time or custody; or
		(b) affect the obligation of the convicted person to financially support the child .
Vermont	Vt. Stat. Ann. tit. 15 § 665	(1) The Court may enter an order awarding sole parental rights and responsibilities to a parent and denying all parent-child contact with the other parent if the Court finds by clear and convincing evidence that the nonmoving parent was convicted of sexually assaulting the moving parent and the child was conceived as a result of the sexual assault.
	2014 HB 88	(A) An order issued in accordance with this subdivision (f)(1) shall be permanent and shall not be subject to modification.
		(B) Upon issuance of a rights and responsibilities order pursuant to this subdivision (f)(1), the Court shall not issue a parent-child contact order and shall terminate any existing parent-child contact order concerning the child and the nonmoving parent.
		(2) The Court may enter an order awarding sole parental rights and responsibilities to one parent and denying all parent-child contact between the other parent and a child if the Court

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		finds by clear and convincing evidence that the child was conceived as a result of the nonmoving parent sexually assaulting or sexually exploiting the moving parent and the Court finds by a preponderance of the evidence that such an order is in the best interest of the child. A conviction is not required under this subdivision and the Court may consider other evidence of sexual assault or sexual exploitation in making its determination.
Virginia	Va. Code § 16.1-241	The authority of the juvenile court to adjudicate matters involving the custody, visitation, support, control or disposition of a child shall not be limited to the consideration of petitions filed by a mother, father or legal guardian but shall include petitions filed at any time by any party with a legitimate interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not be limited to, grandparents, step-grandparents, stepparents, former stepparents, blood relatives and family members. A party with a legitimate interest shall not include any person (i) whose parental rights have been terminated by court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or through a person whose parental rights have been terminated by court order, either voluntarily or involuntarily, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members, if the child subsequently has been legally adopted, except where a final order of adoption is entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a result of such violation. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the child has previously been awarded to the custody of a local board of social services.
	Va. Code § 20-124.1	

"Person with a legitimate interest" shall be broadly construed and includes, but is not limited to, grandparents, step-grandparents, stepparents, former stepparents, blood relatives and

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		family members provided any such party has intervened in the suit or is otherwise properly before the court. The term shall be broadly construed to accommodate the best interest of the child. A party with a legitimate interest shall not include any person (iii) who has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a result of such violation.
Washington	Wash. Rev. Code § 13.34.132 2000 SB 6217	A court may order that a petition seeking termination of the parent and child relationship be filed if the following requirements are met: (4) Because of the existence of aggravated circumstances, reasonable efforts to unify the family are not required. Notwithstanding the existence of aggravated circumstances, reasonable efforts may be required if the court or department determines it is in the best interests of the child. In determining whether aggravated circumstances exist by clear, cogent, and convincing evidence, the court shall consider one or more of the following: (j) Conviction of the parent, when a child has been born of the offense, of: (A) A sex offense under chapter 9A.44 RCW; or (B) incest under RCW 9A.64.020.
West Virginia	W. Va. Code § 48- 9-209a 2014 HB 4139	(a) Except as otherwise provided in this section, if a child custodial responsibility or parenting time dispute involves a child who is conceived as a result of acts by which one of the child's biological parents has been convicted of sexual assault, pursuant to section three, four or five, article eight-b, chapter 61 of this code, or of sexual abuse by a parent, guardian or custodian, pursuant to section five, article eight-d, chapter sixty-one of this code, the court shall not allocate custodial responsibility to the biological parent convicted of the sexual assault, and the convicted parent has no right to parenting time with the child unless the court finds by clear and convincing evidence set forth in written findings that it is in the best interests of the child, adequately protects the child and the victim of the sexual offense and that the person or persons with custodial responsibility of the child consent thereto.

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		<p>(b) Subsection (a) does not apply if:</p> <p>(1) The biological parents are husband and wife at the time of the offense and, after the date of conviction, cohabit and establish a mutual custodial environment for the child; or</p> <p>(2) After the date of conviction, the unmarried biological parents cohabit and establish a mutual custodial environment for the child.</p> <p>(c) If persons described by subsection (b) of this section later separate or divorce, the conviction of sexual assault, pursuant to section three, four or five, article eight-b, chapter sixty-one of this code, or of sexual abuse by a parent, guardian or custodian, pursuant to section five, article eight-d, chapter 61 of this code creates a rebuttable presumption that exclusive or shared custodial responsibility of the child by the perpetrator of the offense is not in the best interests of the child. The convicted parent has no right to parenting time with the child unless the court finds by clear and convincing evidence set forth in written findings that, despite the rebuttable presumption required by this subsection, a custodial responsibility or parenting time arrangement with the convicted parent is in the best interests of the child, adequately protects the child and the victim of the sexual offense, and that the victim of the sexual offense consents thereto.</p> <p>(d) A denial of custodial responsibility or parenting time under this section does not by itself terminate the parental rights of the person denied custodial responsibility or parenting time, nor does it affect the obligation of the person to support the minor child.</p>
Wisconsin	Wis. Stat. Ann. § 48.415	<p>Grounds for termination of parental rights shall be one of the following:</p> <p>(9) Parenthood as a result of sexual assault.</p> <p>(a) Parenthood as a result of sexual assault, which shall be established by proving that the child was conceived as a result of a sexual assault in violation of s. 940.225 (1), (2) or (3), 948.02 (1) or (2), 948.025, or 948.085. Conception as a result of sexual assault as specified</p>

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		<p>in this paragraph may be proved by a final judgment of conviction or other evidence produced at a fact-finding hearing under s. 48.424 indicating that the person who may be the father of the child committed, during a possible time of conception, a sexual assault as specified in this paragraph against the mother of the child.</p> <p>(b) If the conviction or other evidence specified in par. (a) indicates that the child was conceived as a result of a sexual assault in violation of s. 948.02 (1) or (2) or 948.085, the mother of the child may be heard on her desire for the termination of the father's parental rights.</p>

About This NCSL Project

NCSL staff in D.C. and Denver can provide comprehensive, thorough, and timely information on critical child support policy issues. We provide services to legislators and staff working to improve state policies affecting children and their families. NCSL's online clearinghouse for state legislators includes resources on child support policy, financing, laws, research and promising practices. **Technical assistance visits to states are available to any state legislature that would like training or assistance related to this topic.**

The Denver-based child support project staff focuses on state policy, tracking legislation and providing research and policy analysis, consultation, and technical assistance specifically geared to the legislative audience. Denver staff can be reached at (303) 364-7700 or cyf-info@ncsl.org.

NCSL staff in Washington, D.C. track and analyze federal legislation and policy and represent state legislatures on child support issues before Congress and the Administration. In D.C., Joy Johnson Wilson at 202-624-8689 or by e-mail at joy.wilson@ncsl.org and Rachel Morgan at (202) 624-3569 or by e-mail at rachel.morgan@ncsl.org.

The child support project and D.C. human services staff receive guidance and support from NCSL's Standing Committee on Health & Human Services.

Additional Resources

- Child Support and Family Law Legislation Database
- Child Support and Family Law Legislative Enactments 2014 (So Far!)
- Domestic Violence Legislation 2013-2014

NCSL Member Toolbox

Members Resources

- Get Involved With NCSL
- Jobs Clearinghouse
- Legislative Careers
- NCSL Staff Directories
- Staff Directories
- StateConnect Directory

Policy & Research Resources

- Bill Information Service
- Legislative Websites
- NCSL Bookstore
- State Legislatures Magazine

Accessibility Support

- Tel: 1-800-659-2656 or 711
- Accessibility Support
- Accessibility Policy

Meeting Resources

- Calendar
- Online Registration

Press Room

- Media Contact
- NCSL in the News
- Press Releases

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